

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

April 16, 1992
AO-92-05

The Honorable Joan M. Menard
State House Room 481
Boston, MA 02133

Re: Expenditures for cleaning and certain clothing

Dear Representative Menard:

This letter is in response to your request for an advisory opinion asking if your political committee may expend monies for certain cleaning and clothing costs which you incur.

You have stated that you maintain an office on the first floor of your home. The office and other parts of your house serve as your campaign headquarters during every campaign. The office is also used as a district office. A staff person is there at least 4 days each week and your telephone number is listed as your district office number. As a result of your office's use as both a campaign office and a district office there is a great deal of traffic through the house which creates additional cleaning costs including weekly cleaning on the first floor of your house and periodic cleaning of the first floor rugs. You ask if part or all of the additional cleaning costs may be paid for by your political committee.

On a separate matter, you have stated that the expectations as to how you dress (sometimes formally and sometimes less formally) are very different now than they were previously for two reasons. First, you are now a member of the House leadership as a result of your appointment as Assistant Majority Whip. Therefore, you are expected to go to many campaign fundraisers and other party functions. Second, you are now also co-chair of the your party's platform committee and have been and will be traveling throughout the Commonwealth to speak about the platform, to conduct hearings and the like. You ask if part or all of the additional clothing costs may be paid for by your political committee.

While your questions may appear simple, they do, in fact, raise a number of difficult issues. For purposes of clarity, I will address each of your questions separately.

I. Cleaning Costs For A Home Office - M.G.L. c.55, s.6 provides, in pertinent part, that political committees such as yours may make expenditures "for the enhancement of [your] political future . . . so long as such expenditure is not primarily for [your] or any other person's personal use" The word "expenditure" is defined, in pertinent part, by M.G.L. c.55, s.1 to include:

any expenditure of money, or other thing of value, by an individual candidate or political committee . . . , for the purpose of influencing the nomination or election of said individual or candidate. . .

Reading these two provisions of the law together it is clear that all expenditures by political committees such as yours must relate to your political future in connection with a campaign for nomination or election to office and not primarily for your or any other person's personal use.

It has been the long-standing position of this Office that a campaign office may be established in a candidate's home and that a political committee may make expenditures in connection with such a campaign office provided that the office area is used primarily for campaign purposes and that the particular expenditures are not otherwise prohibited by the limitations on personal use. See AO-83-02.

Consistent with this limitation, the Office has advised that certain expenditures (e.g., the purchase of furniture) for particular areas of a candidate's home (e.g., a kitchen, dining or living room) are not permissible since such areas of one's home necessarily play a primary role in one's personal life. See AO-83-02. See also AO-86-08 (concluding, in part, that office space used primarily for professional purposes, such as practicing law, may not be paid for by funds of a political committee). The Office would, however, distinguish between expenditures such as the purchase of furniture for one's living areas which "enhance" one's personal life and those such as cleaning costs which seek only to respond to the additional wear and tear from increased traffic and dirt directly caused by maintaining a separate campaign office in one's home. Therefore, a political committee may pay for the additional cleaning costs caused by maintaining a campaign office in one's home. For example, if a candidate would clean certain areas of their home on a monthly basis but, because of significant traffic and dirt created by supporters and workers, needs to clean these same areas twice a month to maintain the areas in the manner they would be maintained without such campaign activity on a monthly basis, the candidate's political committee could pay for that portion of the candidate's

cleaning bill directly related to increased campaign-generated traffic and dirt.

The above discussion has assumed that your home office was exclusively a "campaign" office maintained for "political" reasons. However, it is my understanding that your home office is used for campaign purposes on occasion and also for legislative purposes approximately 4 days per week. This fact further complicates the resolution of your question. This Office has long distinguished between expenditures for matters which are campaign-related or political in nature and those which are legislative or governmental in nature. While the campaign finance law permits political committees to pay for the former, it prohibits payment for the latter since such payment would be considered a "personal use."¹ Since your office appears to be used for both purposes, your political committee could pay only for that portion of additional cleaning costs which are directly related to campaign-generated activity. I recognize that accurately documenting the various percentages required is not easy. However, it would be necessary in order to demonstrate the legitimacy of the political expenditure.

For the above reasons, it is this Office's opinion that a political committee may pay for the additional cleaning costs generated by campaign-related traffic and dirt in connection with a campaign office located in a candidate's home provided the political committee is able to document the nature and extent of the additional cleaning requirements resulting from such a campaign office.

II. Clothing Costs - As with the question regarding cleaning costs addressed above, the question regarding a political committee's payment for certain clothing begins with M.G.L. c.55, s.6's authorization of expenditures for the candidate's political future subject to the statutory and regulatory limitation on personal use.²

1. The term "personal use" as employed in the context of M.G.L. c.55, s.6 is a term of art which includes any non-political use such as business, governmental, legislative, family or social use. See AO-91-06.

2. This discussion in this part assumes that any expenditures by your political committee are for campaign-related or political purposes. To the extent that certain clothing is required to fulfill primarily legislative responsibilities (due to your appointment as Assistant Majority Whip) rather than political responsibilities, such expenses would not be appropriate for payment by your political committee since they would by definition be governmental and, therefore, "personal" as noted in the discussion set forth in part one of this opinion.

970 CMR 2.06(6)(a)(4) provides, in pertinent part, that no political committee may make expenditures for a candidate's personal use including, but not limited to:

4. Normal clothing attire which is usual to the ordinary course of everyday living. This prohibition shall not apply to:

(a) novelty clothing items and costumes which are worn primarily to advertise one's candidacy; and

(b) clothing items rented by a candidate for his use exclusively for a particular political function, which is different from that ordinarily purchased by individuals.

This Office believes that the prohibition against personal use established by M.G.L. c.55, s.6 and interpreted in this part of the regulations is designed to prevent candidates from using political committee funds to purchase clothing which they would use for work or leisure even if such clothing could or would also be used for campaigning. To conclude otherwise would create a potential for abuse which would be almost impossible to control or effectively regulate. However, there are certain clothing costs which are permissible.

Subsection (4)(b) expressly permits the rental of clothing for a particular political function. This section would clearly permit an expenditure for a "black tie" or other formal affair. Today, it is possible to rent almost any type or style of clothing. Therefore, this section would address both a male candidate's need to rent a tuxedo as well as a female candidate's equally legitimate need to rent a ball gown.

For all of the above reasons, it is the Office's opinion that political committees may rent but not purchase clothing items such as tuxedos, ball gowns or other clothing which is not ordinarily purchased by individuals and which is required by tradition, custom or other reasons for specific political functions such as so-called "black tie" or "fancy dress" affairs. If such clothing is also worn for everyday work or leisure activities or routine campaign activities, it may not be rented by a political committee.

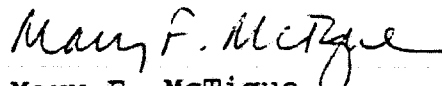
I would caution that the above conclusion is not meant to authorize political expenditures for everyday clothing attire which is simply more contemporary, stylish, expensive or helps, in the candidate's opinion, to produce a "better" image. While I recognize that arguments can be made that certain kinds or styles of clothing may enhance a candidate's political future, clothing worn on a daily or regular basis is nonetheless primarily personal and, therefore, may not be rented for a candidate by a political committee.

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This opinion is based solely on the representations set forth in your letter and conversations with the Office's General Counsel as well as assumptions set forth in this letter. This opinion has also been rendered solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office if you should have any additional questions.

Very truly yours,

A handwritten signature in cursive script, reading "Mary F. McTigue".

Mary F. McTigue
Director